

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 5, 2006

CALL TO PODIUM:

Trudy Schwarz

RESPONSIBLE STAFF:

**Trudy Schwarz, Community
Planning Director**

**Jim Arnoult, Director, Department
of Public Works, Park Maintenance
and Engineering**

**Erica Shingara, Environmental
Services Director**

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
X	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item
is a public hearing)

Introduced	08/07/2006
Advertised	08/09/2006
Hearing Date	08/21/2006
Record Held Open	08/31/2006
Policy Discussion	09/05/2006

TITLE: POLICY DISCUSSION

Ordinance to Amend Chapter 10 of the City Code (Floodplain Ordinance), Article I, Entitled, "Site In General," Article II, Entitled, "Permit Process," Article III, Entitled, "Establishment of Floodplain Zones," Article IV, "Development Regulations in Floodplain Zones," and Article V, Entitled "Specific Requirements" so as to comply with Federal Emergency Management Agency and State Of Maryland Requirements

SUPPORTING BACKGROUND:

In September of 2005, the Federal Emergency Management Administration (FEMA) of the Department of Homeland Security sent the City new Digital Flood Insurance Maps (DFIRM) and a Flood Insurance Study (FIS). City staff, along with the staff of Montgomery County and other jurisdictions in the County, met with FEMA and the contractor conducting the study on December 13, 2005. As part of the meeting, the City's Floodplain Ordinance was submitted to FEMA for their review. On January 13, 2006, a letter was sent requesting changes to the code section related to "Substantial Improvement." They requested that changes be incorporated by the City by September 29, 2006. Following that, staff also compared the existing ordinance to the 2004 State of Maryland's updated model ordinance. Changes which are highlighted on the Draft Ordinance have been incorporated in the proposed amendment to the Floodplain Ordinance to conform to both the State and FEMA requirements.

At the Public Hearing there was no testimony and no written testimony has been submitted to the record, other than the certified legal ad, the minutes of the August 7, 2006, meeting, the transcript of the hearing and the map of the floodplains.

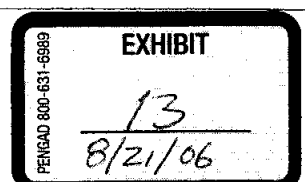
Attachments:

Index of Memoranda and Exhibits marked in **bold**.

DESIRED OUTCOME:

**Record closed Thursday, August 31, 2006, at 5
p.m.**

Ordinance is ready for final action



INDEX OF MEMORANDA

Amendments to the Floodplain Ordinance

1. **Draft Ordinance**
2. Letter from FEiMA, dated January 10, 2006
3. Letter from FEMA, dated June 2, 2006
4. Maryland Model Floodplain Management Ordinance 1/6/04
5. Mayor and Council Cover Sheet for August 7, 2006, Introduction of Ordinance with attachments of Exhibits 1-3
6. Letter to *Gaithersburg Gazette* dated August 4, 2006, requesting a Legal Ad for August 9, 2006, issue. Fax and email printed communications are same
7. Notice of August 21, 2006, public hearing to interested parties. Labels for people notified
8. Mayor and Council Cover Sheet for August 21, 2006, Public Hearing with attachments
9. **Certified copy of the Notice of Public Hearing as published in the August 9, 2006, issue of the *Gaithersburg Gazette***
10. **Minutes of the August 7, 2006, Public Hearing at the Mayor and City Council Meeting**
11. **Map showing Floodplains within the City of Gaithersburg**
12. **Transcript of the August 21, 2006, Mayor & City Council Public Hearing**
13. **Mayor and Council Cover Sheet for September 5, 2006**

ORDINANCE No. _____

AN ORDINANCE TO AMEND CHAPTER 10 OF THE CITY CODE
(FLOODPLAIN ORDINANCE), ARTICLE I, ENTITLED,
"SITE IN GENERAL," ARTICLE II, ENTITLED, "PERMIT PROCESS," ARTICLE III,
ENTITLED, "ESTABLISHMENT OF FLOODPLAIN ZONES," ARTICLE IV,
"DEVELOPMENT REGULATIONS IN FLOODPLAIN ZONES," AND ARTICLE V,
ENTITLED "SPECIFIC REQUIREMENTS" SO AS TO COMPLY WITH FEDERAL
EMERGENCY MANAGEMENT AND STATE OF MARYLAND REQUIREMENTS

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg,
Maryland, in public meeting assembled, that Chapter 10 of the City Code (Floodplain
Management), Article I through Article V, §§10-2, 10-28, 10-43, 10-51, 10-52 and 10-
70 is hereby amended to read as follows:

ARTICLE 1. IN GENERAL

* * *

Sec. 10-2. Definitions.

Accessory structure means a detached structure on the same parcel of
property as the principal structure, the use of which is incidental and subordinate to
the principal structure, eg. a shed or detached garage.

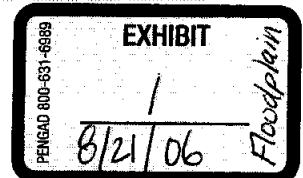
* * *

Flood Protection Elevation (FPE) means the elevation of the base flood plus
~~[one foot]~~ two feet freeboard.

* * *

Repetitive Loss - flood related damage sustained by a structure on two
separate occasions during a 10-year period for which the cost of repairs at the time of
each such flood event, on the average, equals or exceeds 25% of the market value
of the structure before the damage occurred.

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Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill

Existing law unaffected by bill..

Substantial improvement means any repair, reconstruction, alteration, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure (less land value) either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has incurred substantial damage and been restored, before the damage occurred.

Substantial improvement occurs when the first alteration of any wall, ceiling, floor or other structural part of the building commences. The minimum repairs needed to correct previously identified violations of local health, safety or sanitary codes, ~~[and alterations to historic structures which do not preclude their continued designation and use as historic structures]~~ are not considered substantial improvements.

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ARTICLE II. PERMIT PROCEDURES

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Sec. 10-28. Subdivision proposals.

(a) In addition to the information required in section 10-27, an applicant for subdivision in the nontidal floodplain zone shall submit a plan to demonstrate that a building site for each lot is outside of the one hundred-year floodplain. The local permitting official shall assure that a plan for the perpetual protection of the floodplain areas in their natural state as required under section 10-52(e) is included. The plan shall demonstrate how development in the floodplain will be avoided, and the floodplain maintained in a natural state to the extent possible.

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ARTICLE III. ESTABLISHMENT OF FLOODPLAIN ZONES

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Sec. 10-43. Floodplain boundaries.

(a) *Floodplain zone determination.* The local permitting official will determine the floodplain zone in which the development activity is proposed using the Floodway Maps and FIS if available, or, if not, by using the FIRM. Without prior approval from FEMA, the community shall use no other data to enforce floodplain management regulations. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required. If site studies indicate that the FEMA mapped floodplain is incorrectly delineated, revisions shall be made through a Conditional

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Letter of Map Revision (CLOMR), Letter of Map Revision (LOMR), or Letter of Map Amendment (LOMA) issued by FEMA prior to subdivision approval. If required by FEMA, as-built data must be provided to FEMA, and a Letter of Map Revision (LOMR) issued prior to any structures being permitted. Floodplain changes should be authorized only when the actual conditions are not reflected in the mapped floodplain or for necessary public infrastructure.

* * *

ARTICLE IV. DEVELOPMENT REGULATIONS IN FLOODPLAIN ZONES

* * *

Sec. 10-51. Floodplain zone regulations--Generally.

* * *

(3) *Sediment and stormwater management.* Any land disturbance permitted in the floodplain must have an approved stormwater management and sediment and erosion control plan as required by state and city regulations. Stormwater management devices may not encroach into the floodway, and should be kept out the floodplain, if possible. The plan must include design of land contours that will not increase surface water runoff onto neighboring properties. Ground cover must be established immediately after disturbance, and a plan for permanent plantings, including trees, should provide for adequate vegetative cover within the flood protection setback from watercourses to prevent erosion.

Sec. 10-52. Floodway fringe requirements.

* * *

(b) *Elevation requirements--New and substantially improved structures.* All new or substantially improved, or repetitive loss residential and nonresidential structures, including manufactured homes, shall have the lowest floor elevated to or above the flood protection elevation. Basements are not permitted. Horizontal expansions which increase the footprint and that are less than substantial shall also have the lowest flood elevation to or above the flood protection elevation. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the elevation certificate, after the lowest floor is in place. Enclosures below the flood protection elevation must be constructed with water equalizing vents to meet the specifications of section 10-67.

(c) *Fill.*

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***	<i>Existing law unaffected by bill..</i>

- (1) The placement of more than six hundred (600) cubic yards of fill per parcel/lot in the floodplain is prohibited except by variance. If a limited amount of fill in the floodway fringe is warranted or will result in a better site design, a variance may be considered. Elevating buildings by other methods must be considered unless six hundred (600) cubic yards or less of fill are required. An applicant shall demonstrate that fill is the only feasible alternative to raising the building to at least the flood protection elevation, and that the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties. The applicant shall be prepared to provide compensatory storage or other concessions to protect the natural resources of the site to obtain the variance.

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ARTICLE V. SPECIFIC REQUIREMENTS

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Sec. 10-70. Utilities.

(a) *Electric.* All electric utilities to the building side of the meter, both interior and exterior to the building, are regulated by this chapter. Distribution panel boxes must be at least two (2) feet above the flood protection elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, distribution systems, including duct work, must be installed at or above the flood protection elevation.

(b) *Plumbing.* Toilets, sinks, showers, water heaters, pressure tanks, furnaces and other permanent plumbing installations must be installed at or above the flood protection elevation.

(c) *Gas.* Gas meters, distribution lines and gas appliances must be installed at or above the flood protection elevation.

(d) *Water supply and sanitary facilities.* Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of flood waters into the systems or discharges from the systems into flood waters and shall be located and constructed so as to minimize or eliminate flood damage. On-site sewage disposal systems shall meet these same standards.

(e) *Fuel Tanks.* All gas (propane) tanks installed in the floodplain are required to be anchored to prevent flotation in accordance with the National Fire Protection Association

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Code 58, Section 3-2.2.7 (h), which states: "Where necessary to prevent flotation due to possible high flood waters around aboveground or mounded containers, or high water table for those underground and partially underground, containers shall be securely anchored." This ordinance also requires that all tanks installed in floodplain areas be either elevated or adequately anchored to prevent flotation up to the Flood Protection Elevation.

All fuel oil storage tanks installed in the floodplain must be either elevated or securely anchored to prevent flotation up to the Flood Protection Elevation. Vent pipes must extend to or above the Flood Protection Elevation and fill caps below the Flood Protection Elevation must be screw type with a tight fitting gasket to prevent mixing of water with oil.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2006.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006.

SIDNEY A. KATZ, MAYOR

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Existing law unaffected by bill..

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2006, and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the _____ day of _____, 2006. This Ordinance will become effective on the _____ day of _____, 2006.

DAVID B. HUMPTON, City Manager

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Existing law unaffected by bill..

The Gazette N

9030 Comprint Court, Gaithersburg, Maryland 2087

CERTIFICATION

THIS IS TO CERTIFY THAT THE ANNEXED LEC
IN THE GAZETTE NEWSPAPERS FOR THE NUM

Notice of Public Hearing – 8/21/06 – Flood

Gazette Legal Advertising Department

Ashby Elizabeth Tanner

Copy of Ad attached

Ad Order Number: 10499052

Dates: St.: 8/9/06 End: 8/9/06 Ins.: 1

Ashby Elizabeth Tanner
Notary Public, State of Maryland
Montgomery County
My Commission Expires April 6, 2010

NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg will hold a public hearing on an Ordinance filed by Trudy Schwarz, for the Mayor and Council on

MONDAY
AUGUST 21, 2006
AT 7:30 P.M.

or as soon thereafter as it may be heard in the Council Chambers at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland. The application requests Ordinance To Amend Chapter 10 Of The City Code (Floodplain Ordinance), Article I, Entitled, "Site In General," Article II, Entitled, "Permit Process," Article III, Entitled, "Establishment Of Floodplain Zones," Article IV, "Development Regulations In Floodplain Zones," And Article V, Entitled, "Specific Requirements," so as to comply with Federal Emergency Management and State of Maryland Requirements.

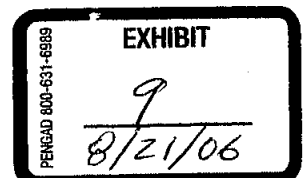
Further information may be obtained from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The proposed ordinance can also be viewed on the City's website at www.gaithersburgmd.gov under Agendas and Legal Ads. To register your intent to testify at the public hearing, or for any questions related to the ordinance, please contact Trudy Schwarz at the Planning and Code Administration at (301) 258-6330.

Trudy Schwarz, Community Planning Director
Planning and Code Administration

10499052

(8-9-06)

RECEIVED
AUG 17 2006
City of Gaithersburg
Finance & Administration



XI. ORDINANCES AND RESOLUTIONS

1. **Introduction of an Ordinance to Amend Chapter 10 of the City Code (Floodplain Ordinance), Article I, Entitled, "Site In General," Article II, Entitled, "Permit Process," Article III, Entitled, "Establishment Of Floodplain Zones," Article IV, "Development Regulations In Floodplain Zones," so as to Comply With Federal Emergency Management Requirements**

Community Planning Director Schwarz introduced the above Ordinance which amends five different Articles in Chapter 10 of the City Code. She stated that the proposed amendments to the Floodplain Ordinance are to comply with both the Federal Emergency Management Agency (FEMA) and State of Maryland requirements. Staff recommended that the Mayor and City Council vote to introduce the proposed ordinance and notify the public that a public hearing will be held on August 21, 2006.

Motion was made by Council Member Edens, seconded by Council Member Marraffa, that the above Ordinance, be introduced.

Vote: 4-0

2. **Resolution Adopting the Arizona Sports Summit Accords**

Sports Specialist Ludington stated that this resolution would adopted the Arizona Sports Summit Accord and the Recommendations for Communities developed through the National Summit on Raising Community Standards tin Children's Sports as the standards for all City and individual organizations to serve as the framework to govern and operate children's sports programs. He stated that adoption of the accord and recommendations would enforce the commitment of the City of Gaithersburg to provide a safe and ethical place to live, learn, work and play.

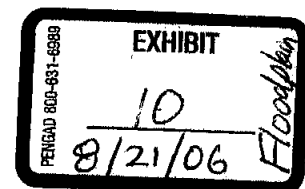
Motion was made by Council Member Schlichting, seconded by, Council Member Edens, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE ARIZONA SPORTS SUMMIT ACCORDS FOR RAISING COMMUNITY STANDARDS FOR CHILDREN'S SPORTS (Resolution No. R-76-06), be approved.

Vote: 4-0

Due to a conflict, Mayor Katz recused himself and Council Vice President Schlichting presided over the meeting for the next agenda item at 9:24 p.m.

3. **Resolution for Use of City Facilities by the Gaithersburg Sports Association**

This resolution authorized the City Manager to enter into an agreement for use of City facilities by the Gaithersburg Sports Association (GSA). GSA provides services in the form of a youth baseball program in the spring, summer and fall to the residents of the City. The Agreement is for one year with renewal options available for a total of five years, subject to an annual review. The Agreement establishes City policy and guidelines for the scheduling of fields, weather related issues, and costs associated with staffing, utilities, field maintenance and associated issues related to security. This Agreement also allows the City Manager to enter into lease agreements for use of the concession facilities at Kelley Park, Robertson Park and Morris Park and the storage area at the Activity Center at Bohrer Park.



TRANSCRIPT OF

PUBLIC HEARING

ON

An Ordinance to Amend Chapter 10 of the City Code (Floodplain Ordinance), Article I, Entitled, "Site In General," Article II, Entitled, "Permit Process," Article III, Entitled, "Establishment Of Floodplain Zones," Article IV, "Development Regulations In Floodplain Zones," and Article V, Entitled "Specific Requirements" so as to Comply With Federal Emergency Management Agency and State of Maryland Requirements

BEFORE THE

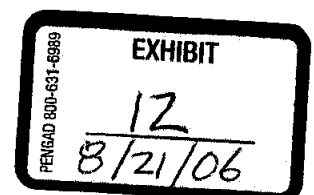
CITY OF GAITHERSBURG

MAYOR AND CITY COUNCIL

on

August 21, 2006

**Transcribed by
Doris R. Stokes**



PARTICIPANTS

CITY COUNCIL

Mayor Katz
Council Vice President Schlichting
Council Member Alster
Council Member Marraffa
Council Member Sesma

STAFF

Trudy Schwarz, Community Planning Director

SPEAKERS FROM THE PUBLIC

None

Katz The next item that we have are public hearings. Tonight we have two of them. The first I guess Trudy will explain to us, please.

Schwarz Good evening. This is a public hearing on an amendment to Chapter 10 of the City Code, the floodplain ordinance. It amends Articles 1-5 so as to comply with the requirements of the Federal Emergency Management Agency, also known as (FEMA) and the State of Maryland requirements concerning floodplain ordinances. This relates to the definition of substantial development, flood protection elevation, repetitive loss, revisions to the floodplain maps, and also fuel tanks within the floodplain. Basically, it's a housekeeping ordinance. We are just keeping up with what is required by the Federal government. The hearing was duly advertised on August 9, 2006, in the *Gaithersburg Gazette* and has also been on the City's website. At the present time there are nine exhibits in the record file. They are referenced in an exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning and Code Administration Office during regular business hours at City Hall. Any objections to the receipt of any exhibit should be noted prior to the closing of the record; otherwise they will be deemed received in evidence. Unless there are objections, staff is recommending that the record be open for 10 days, until August 31, 2006.

Katz Thank you very much. Any questions of Trudy?

Sesma Is there a map of the floodplain locations in the City? I didn't see an attachment or list.

Schwarz No sir, we're just changing the ordinance which refers to adoption of the maps that we already have. We actually just got brand new maps today from FEMA. We can certainly run you maps over arials of the existing floodplains areas. At this time, we only have two structures that are within the floodplain. We've been keeping any construction outside of the floodplain before I started working here and that was long time ago.

Sesma I think people might be intrigued to know that there are floodplains in the City. There might actually be some structures on them so that is why I asked. Thank you.

Katz Thank you. Any other questions? This is the time that the Mayor and Council hear from anyone who would like to speak on this public hearing topic. We ask that you please keep your remarks to no more than three minutes. I will advise you when you have 30 seconds left of your three minutes so that you can begin to finish your statement. Please note that any additional testimony that you might have can be submitted to the City in written form and will be a part of the record just as you oral testimony. Please state your name and address for the record. Do we have anyone who would like to speak on this topic? I see know one, is that correct? Thank you very much. It has been suggested that we hold the record open for 10 days and that would be until 5 p.m., Thursday, August 31, 2006. What is the pleasure of the Council?

Marraffa Mr. Mayor I move that we hold the ordinance to amend Chapter 10 of the City Code, floodplain ordinance, Article I, Entitled, "Site In General," Article II, Entitled, "Permit Process," Article III, Entitled, "Establishment Of Floodplain Zones," Article IV, "Development Regulations In Floodplain Zones," and Article V, Entitled "Specific Requirements" so as to comply with Federal Emergency Management Agency and the State of Maryland requirements, holding the record open for 10 days.

Alster Second.

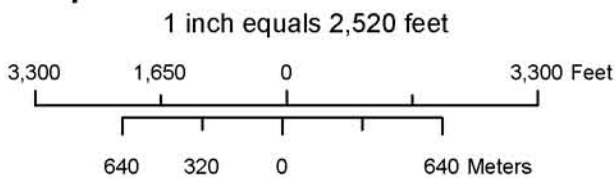
Katz It's been moved and seconded. All those in favor please say aye?

Council Ayes.

Katz Opposed? That carries unanimously, 4-0. Thank you very much.

End of Public Hearing
"Floodplain"

City of Gaithersburg
Floodplain Map
1982 *

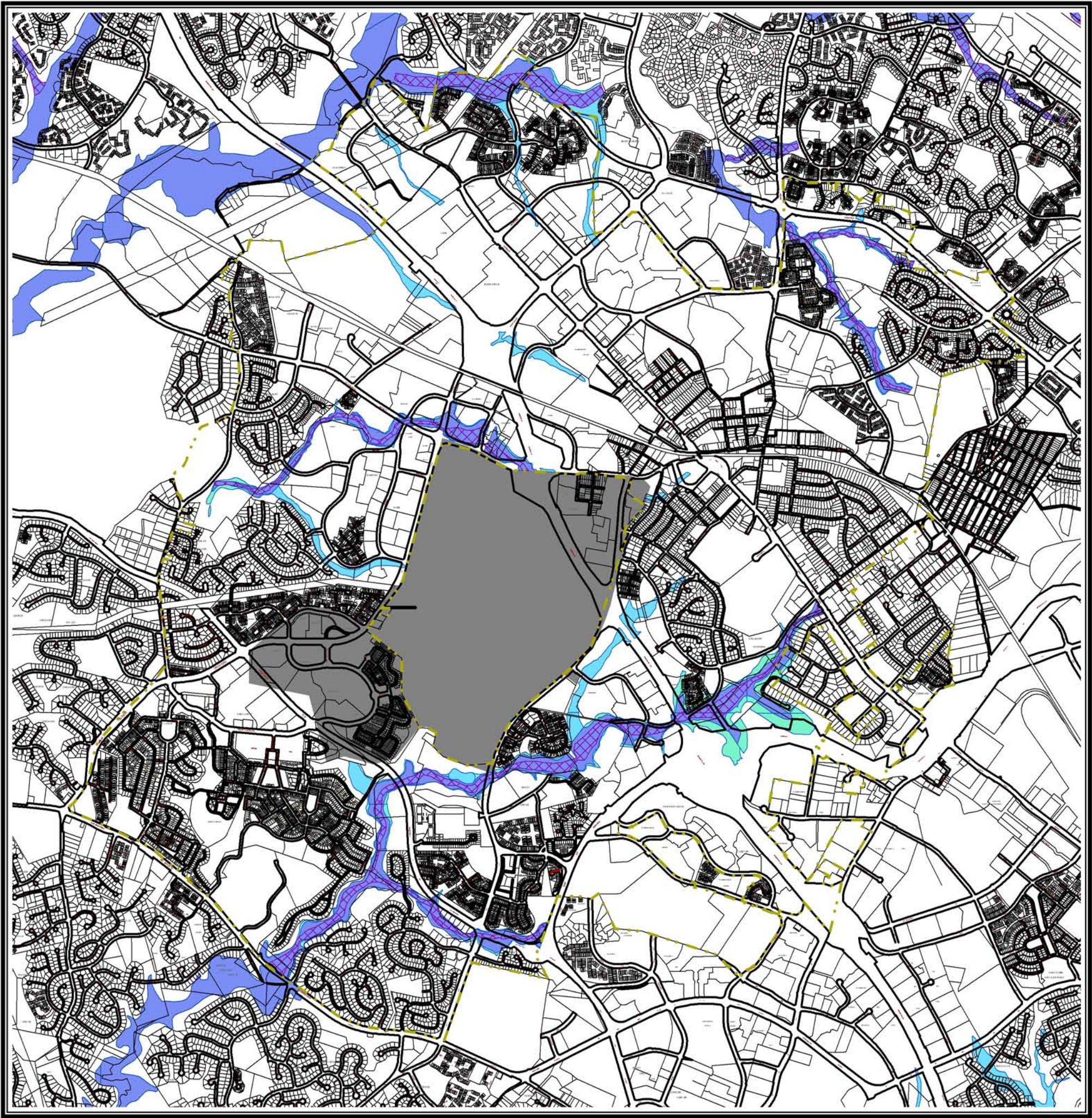


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City of Gaithersburg
Planning and Code Admin
31 S Summit Ave
Gaithersburg, MD 20877
(301) 258-6330
www.gaithersburgmd.gov



Legend

- City Boundary
- Lot and Deed Lines, Railroad & Utility ROW *Property Boundaries*
- Public Street Right-Of-Way
- FEMA Floodways
- A - 100-year Floodplain (no base flood depths)
- AE - 100-year Floodplain (base flood depths)
- X500 - 500-year Floodplain
- ANI - Areas Not Included in flood study
- X - Areas Outside 500-year Floodplain

*These floodplain areas were established by the
Federal Emergency Management Agency (FEMA) and
are delineated on the City of Gaithersburg Flood Insurance
Rate Maps (FIRM), Community Panels 240050 0001-- 0007,
December 1, 1982